

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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07-cv-480

NATHAN BROWN,

PLAINTIFF

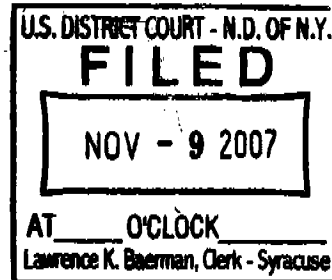
Vs.

DALE ARTUS et al

DEFENDANTS

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NOTICE OF MOTION TO  
COMPEL DISCOVERY  
RULES 34(c) AND 37(c)  
FED. R. CIV. P.



PLEASE TAKE NOTICE, THAT UPON THE ANNEXED MOTION FOR AN ORDER COMPELLING THE PRODUCTION OF DOCUMENTS ALONG WITH AN ORDER COMPELLING ANSWERS TO INTERROGATORIES DATED OCTOBER 1, 2007. AND UPON ALL OTHER PROCEEDINGS HAD HEREIN PLAINTIFF BROWN WILL MOVE THIS COURT, HONORABLE DAVID E. PEEBLES, U. S. MAGISTRATE JUDGE, UNITED STATES DISTRICT COURT, 100 SOUTH CLINTON STREET, SYRACUSE NEW YORK 13261 AT 10:30 A.M. AT A DATE TO BE SET BY THE COURT. FOR AN ORDER COMPELLING PRODUCTION OF DOCUMENTS AND ANSWERS TO INTERROGATORIES.

DATED:  
NOVEMBER 7, 2007

RESPECTFULLY YOURS,

Nathan Brown

NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. Box 2001  
DANNEMORA, NEW YORK 12929

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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07-CV-480

NATHAN BROWN,  
PLAINTIFF

MOTION TO COMPEL  
DISCOVERY

VS.

DALE ARTUS, et al  
DEFENDANTS

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THE PLAINTIFF HEREBY MOVES PURSUANT TO RULE 34(b) AND 37(c) FEDERAL RULES OF CIVIL PROCEDURE, FOR AN ORDER COMPELLING TO PRODUCE DOCUMENTS AND TO ANSWER INTERROGATORIES REQUESTED ON OCTOBER 1, 2007.

RESPECTFULLY YOURS,  
Nathan Brown

NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. BOX 2001  
DANNEMORA, NEW YORK 12929

DATED:  
NOVEMBER 7, 2007

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

07-CV-480

NATHAN BROWN,  
PLAINTIFF

AFFIRMATION IN SUPPORT OF  
MOTION TO COMPEL DISCOVERY

VS.

DALE ARTUS, et al  
DEFENDANTS

NATHAN BROWN, BEING DULY SWORN, DEPOSES AND SAYS:

(1) I AM THE PLAINTIFF IN THIS LAWSUIT. I MAKE THIS AFFIRMATION IN SUPPORT OF MY MOTION TO COMPEL.

(2) ON OCTOBER 1, 2007 I SERVED BY REGULAR MAIL, A SECOND SET OF DOCUMENT REQUESTS ALONG WITH A THIRD REQUEST FOR INTERROGATORIES ON CHRISTINA L. ROBERTS-RYBA, ASSISTANT ATTORNEY GENERAL, WHICH ARE APPENDED TO THE MOTION AS EXHIBITS A AND B.

(3) ON OCTOBER 30, 2007 I WROTE A LETTER TO DEFENDANTS ATTORNEY EXPRESSING MY EXPECTATIONS FOR THOSE DOCUMENTS, ANSWERS TO INTERROGATORIES. THAT LETTER IS APPENDED TO THE MOTION AS EXHIBIT-C.

WHEREFORE, PLAINTIFF BROWN REQUESTS THIS COURT GRANT THE MOTION IN ALL RESPECTS.

DATED:

NOVEMBER 7, 2007

RESPECTFULLY YOURS,

Nathan Brown

NATHAN BROWN 90A3219  
CLINTON PRISON  
P.O. BOX 2001  
DANNEMORA, NEW YORK 12929

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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07-cv-480

NATHAN BROWN,

PLAINTIFF

BRIEF IN SUPPORT OF MOTION  
TO COMPEL DISCOVERY

Vs.

DALE ARTUS, et al

DEFENDANTS

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STATEMENT OF THE CASE

THIS IS A CIVIL RIGHTS LAWSUIT FILED BY NATHAN BROWN, A PRISONER CURRENTLY CONFINED AT CLINTON PRISON LOCATED IN DANNEMORA NEW YORK. PLAINTIFF SEEKS DAMAGES BASED UPON DEPRIVATION OF HIS FIRST AND EIGHTH AMENDMENT RIGHTS GUARANTEED BY THE UNITED STATES CONSTITUTION AND 42 U.S.C. SECTION 1983.

STATEMENT OF FACTS

ON OCTOBER 1, 2007, I SERVED BY REGULAR MAIL, A REQUEST FOR PRODUCTION OF DOCUMENTS ALONG WITH A REQUEST FOR INTERROGATORIES ON CHRISTINA L. ROBERTS - RYBA ASSISTANT ATTORNEY GENERAL. THOSE REQUESTS ARE APPENDED TO THE MOTION AS EXHIBITS A AND B. ON OCTOBER 30, 2007 I WROTE A LETTER TO DEFENDANTS ATTORNEY. THAT LETTER IS APPENDED TO THE MOTION AS EXHIBIT - C. SINCE DEFENDANTS HAVE FAILED TO ANSWER, MR. BROWN IS ENTITLED TO AN ORDER FROM THIS COURT COMPELLING THE REQUESTED DOCUMENTS AND ANSWERS TO INTERROGATORIES.

ARGUMENT

BECAUSE THE DEFENDANTS HAVE FAILED TO PRODUCE THE REQUESTED DOCUMENTS AND HAS FAILED TO ANSWER INTERROGATORIES, MR. BROWN IS ENTITLED TO AN ORDER COMPELLING THE DOCUMENTS REQUESTED ON OCTOBER 1, 2007 AND THE INTERROGATORIES REQUESTED ON OCTOBER 1, 2007. ADDITIONALLY RULE 26(b)(1) FEDERAL RULES OF CIVIL PROCEDURE STATES THAT "[P]ARTIES MAY OBTAIN DISCOVERY REGARDING ANY MATTER, NOT PRIVILEGED, WHICH IS RELEVANT TO THE SUBJECT MATTER INVOLVED IN THE PENDING ACTION, WHETHER IT RELATES TO THE CLAIM OR DEFENSE OF THE PARTY SEEKING DISCOVERY OR THE CLAIM OF ANY PARTY, INCLUDING THE EXISTENCE, DESCRIPTION, NATURE, CUSTODY, CONDITION AND LOCATION OF ANY BOOKS, DOCUMENTS, OR OTHER TANGIBLE THINGS AND THE IDENTITY AND LOCATION OF PERSONS HAVING KNOWLEDGE OF ANY DISCOVERABLE MATTER. IT IS NOT OBJECTION GROUNDS THAT THE INFORMATION SOUGHT WILL BE INADMISSABLE AT THE TRIAL IF THE INFORMATION SOUGHT APPEARS REASONABLY CALCULATED TO LEAD TO THE DISCOVERY OF ADMISSIBLE EVIDENCE.

FOR THE REASONS STATED ABOVE, MR. BROWN RESPECTFULLY REQUESTS THAT THIS HONORABLE COURT OVERRULE DEFENDANTS OBJECTIONS AND DIRECT DEFENDANTS TO PRODUCE DOCUMENTS AND ALSO ANSWER INTERROGATORIES.

DATED:

NOVEMBER 7, 2007

RESPECTFULLY YOURS,

Nathan Brown

NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. BOX 2001  
DANNEMORA, NEW YORK 12929

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

07-cv-480

NATHAN BROWN

PLAINTIFF

V

PLAINTIFF'S REQUEST FOR  
PRODUCTION OF DOCUMENTS

DALE ARTUS, et al

DEFENDANTS

SECOND

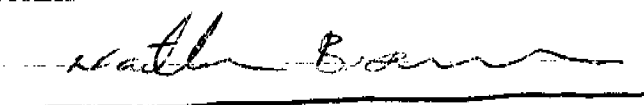
SET

PLEASE TAKE NOTICE THAT, PURSUANT TO RULES 26 AND 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE, PLAINTIFF HEREBY REQUESTS THAT DEFENDANTS PRODUCE FOR INSPECTION AND COPYING THE FOLLOWING DOCUMENTS IN DEFENDANTS POSSESSION, CUSTODY OR CONTROL IN ACCORDANCE WITH THE AFFORESTATED RULES, WITHIN THIRTY (30) DAYS.

- (1) ANY DEPARTMENT OF CORRECTIONAL SERVICES "STAFF PLANNING GRID" FOR THE FOLLOWING DATE OF MARCH 26, 2007 THAT IDENTIFIES THE CORRECTIONS OFFICER THAT WAS ASSIGNED TO UPPER-F UNIT 7 COMPANY AT 9:30 AM
- (2) ANY DEPARTMENT OF CORRECTIONAL SERVICES "STAFF PLANNING GRID" FOR THE FOLLOWING DATE OF MARCH 26, 2007 THAT IDENTIFIES THE CORRECTIONS OFFICER THAT WAS ASSIGNED TO UPPER-F UNIT 9 COMPANY AT 9:30 AM
- (3) ANY DOCUMENTS THAT MENTION, REFER, OR REVEAL THE NAMES OF THE CORRECTIONS OFFICERS THAT WAS ASSIGNED TO UPPER-F UNIT 7 COMPANY AND 9 COMPANY AT 9:30 AM ON MARCH 26, 2007.

- (4) THE DEPARTMENT OF CORRECTIONAL SERVICES' DIRECTIVES IN EFFECT IN MARCH 2007 RELATING TO OR DESCRIBING POLICIES RELATING TO THE FOLLOWING CONDUCT BY EMPLOYEES: UNAUTHORIZED POSSESSION OF WEAPONS; THREATENING INMATES AT KNIFE POINT OR WITH DEADLY OR EXCESSIVE FORCE, OR OTHERWISE, USING UNNECESSARY PHYSICAL FORCE ON INMATES, USING INAPPROPRIATE OR RACIALLY DEROGATORY LANGUAGE, OR, BELONGING TO HATE GROUPS INCLUDING, BUT NOT LIMITED TO, THE KU KLUX KLAN.
- (5) ALL GUIDELINES OR MEMOS REGULATING OR DESCRIBING POLICIES IN EFFECT AT CLINTON PRISON IN MARCH 2007 RELATING TO THE FOLLOWING CONDUCT BY EMPLOYEES: UNAUTHORIZED POSSESSION OF WEAPONS; THREATENING OF INMATES WITH DEADLY OR EXCESSIVE FORCE OR AT KNIFE POINT, OR OTHERWISE; USING UNNECESSARY PHYSICAL FORCE ON INMATES; USING INAPPROPRIATE OR RACIALLY DEROGATORY LANGUAGE, OR BELONGING TO HATE GROUPS INCLUDING, BUT NOT LIMITED TO, THE KU KLUX KLAN.
- (6) ALL DOCUMENTS RELATING TO OR DESCRIBING ANY POLICIES OR REGULATIONS REGARDING READING PRISONER MAIL IN EFFECT AT CLINTON PRISON IN MARCH 2007.
- (7) ALL DOCUMENTS IDENTIFYING THE PERSON OR PERSONS RESPONSIBLE FOR READING UPPER-F BLOCK PRISONER MAIL ON MARCH 26, 2007.

DATED: OCTOBER 1, 2007.

  
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NATHAN BROWN 90A3214

P.O. BOX 2001 (MAIN PRISON)

DANMORA, N.Y. 12929

EXHIBIT-B

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

07-CV-480

NATHAN BROWN

PLAINTIFF

V

PLAINTIFF'S REQUEST FOR  
INTERROGATORIES

DALE ARTUS, et al

THIRD SET

DEFENDANTS

UPON DALE ARTUS

PLEASE TAKE NOTICE THAT PURSUANT TO RULE 33 AND 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE, PLAINTIFF HEREBY REQUEST THAT DALE ARTUS ANSWER THE FOLLOWING INTERROGATORIES WITHIN THIRTY (30) DAYS AFTER SERVICE OF THIS REQUEST.

(1) STATE WHETHER YOUR RECORDS IDENTIFY THE CORRECTIONS OFFICER THAT WAS ON DUTY IN HOUSING BLOCK UPPER-F 9 COMPANY AT APPROXIMATELY 9:30 AM ON MARCH 26, 2007

(2) IF THE ANSWER TO INTERROGATORIES #1 IS IN THE AFFIRMATIVE, STATE:

(A) THE FULL NAME OF THE CORRECTIONS OFFICER

(3) STATE WHETHER YOUR RECORDS IDENTIFY THE CORRECTIONS OFFICER THAT WAS ON DUTY IN HOUSING BLOCK UPPER-F 7 COMPANY AT APPROXIMATELY 9:30 AM ON MARCH 26, 2007.

(4) IF THE ANSWER TO INTERROGATORIES #3 IS IN THE AFFIRMATIVE, STATE:  
(A) THE FULL NAME OF THE CORRECTIONS OFFICER.



Nathan Brown

NATHAN BROWN

90A 3219

CLINTON PRISON

P.O. BOX 2001

DANVERS, NEW YORK 12929

DATED: OCTOBER 1, 2007

EXHIBIT C

CHRISTINA L. ROBERTS-RYBA  
ASSISTANT ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY GENERAL  
THE CAPITAL  
ALBANY, NEW YORK 12224

OCTOBER 30, 2007

MS. ROBERTS-RYBA:

ON OCTOBER 1, 2007 INTERROGATORIES ALONG WITH A  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS WERE FORWARDED  
TO YOU BY MR. BROWN. AS OF NOVEMBER 1, 2007 RESPONSES TO  
THOSE REQUESTS WILL BE DUE. IN THE EVENT THAT MR. BROWN  
DOES NOT HEAR FROM YOU BY NO LATER THAN NOVEMBER 6,  
2007. MR. BROWN WILL OBTAIN SUCH AN ORDER FROM THE  
COURT. THANK YOU FOR YOUR ATTENTION TO THIS MATTER.

Respectfully Yours,

Nathan Brown

cc / NATHAN BROWN

NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. Box 2001  
DANAMORA, NEW YORK 12929

## CERTIFICATE OF SERVICE

I, DO HEREBY CERTIFY THAT ON NOVEMBER 7, 2007, I CAUSED TO BE SERVED FOREGOING PLAINTIFF'S NOTICE OF MOTION TO COMPEL DISCOVERY, MOTION TO COMPEL DISCOVERY, AFFIRMATION IN SUPPORT OF MOTION TO COMPEL DISCOVERY, BRIEF IN SUPPORT OF MOTION TO COMPEL DISCOVERY.



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NATHAN BROWN  
90A3219  
CLINTON PRISON  
P.O. Box 2081  
DANNEMORA, NEW YORK 12929